

REMARKS/ARGUMENTS

The present Amendment is responsive to the Office Action mailed November 22, 2002 in the above-identified application.

Applicants acknowledge and appreciate the Examiner's willingness to conduct a telephone interview regarding the above-identified case on December 4, 2002.

Applicants submit herewith a new Abstract of the Disclosure which essentially tracks the limitations set forth in amended claim 1.

The Examiner rejected claims 1-12 and 15-26 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,140,614 to Padamsee in view of U.S. Patent 5,842,353 to Lin and U.S. Patent 5,208,896 to Katayev. Referring to FIG. 1 thereof, Padamsee discloses an electric drinking cup for use while driving a vehicle. The electric drinking cup includes a plastic inner liner, a metal outer shell, and an insulation-filled space in between. A heating element is associated with the bottom portion of the inner liner and is electrically connected to a vehicle's electrical system. Referring to FIGS. 1 and 2 thereof, Lin discloses a cup-shaped container 10 having an upper opening 13 and a lower end for loading liquid 11, a thermal-resistant cap 12 removably attached to the upper opening 13 of the container 10 for maintaining the temperature of the liquid 11, and a thermal device 36 (FIG.2) installed in the lower end of the container 10 for heating or cooling the liquid 11. The apparatus also includes a base 14 having a power switch 20 activating the apparatus 8, a temperature display 22 for displaying the temperature of the liquid 11 sent by the sensor 38 and a temperature setting means 18 for setting a target temperature. The base includes a recess 25 for receiving a lower end of container 10. The portable container must be

removed from the base when drinking and reinserted back into the base for heating or cooling the liquid contained in the container.

Referring to FIGS. 1 and 2 thereof, Katayev discloses a container 1 made of an electrically non-conductive material with a heating wire 5 embedded in its wall. Mounted below the container 1 is a temperature regulation system including a thermostat, a rechargeable battery and an on-off switch enclosed within a water-tight housing. The electrically warmed baby bottle fits into a battery charger that is designed with plug prongs 11 that enter the water-tight housing through self-sealing ports so as to recharge the battery. The on-off switch 7 may be activated to heat the liquid to a predetermined temperature.

Referring to FIG. 1 thereof, the present application discloses an electronic drinking mug including a controller 48 integrally attached to an outer surface of a mug 20 and in communication with a heating element 62 for selectively activating and deactivating the heating element 62 so as to heat the liquid in the mug 20 to a desired temperature. The electronic drinking mug 20 also includes a user interface 68, 70 and a set key 80 integrally attached over the outer surface of the mug 20 and being in communication with the controller 48 for establishing the desired temperature of the liquid. The integral attachment of the controller 48 and user interface 68 to the outer surface of the mug 20 enables the liquid in the mug to be heated to a desired temperature while the liquid is being consumed by the user. Claim 1 is unobvious over the references cited by the Examiner because the references neither disclose nor suggest an electronic drinking mug including "a controller integrally attached to an outer surface of the mug and in communication with the temperature sensor and the heating element for selectively activating and deactivating the heating

not taken alone.

element." Clearly, Lin's base unit 14 is not integrally attached to container 10. In fact, Lin actually teaches away from the limitations recited in claim 1, because Lin specifically teaches that the portable container 10 must be detached from the base when drinking the liquid stored therein and must be reinserted into the base for heating or cooling the drink loaded inside the container. As noted in the Manual of Patent Examining Procedure at Section 2141.02, a "prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention." (emphasis added) Citing *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 220 U.S.P.Q. 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). In addition, the proposed modification of the Lin reference would change the principle of operation of a reference. As noted in MPEP 2143.01 if "the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." *In re Ratti*, 270 F.2d 810, 123 U.S.P.Q. 349 (C.C.P.A. 1959). Moreover, as noted in the Manual of Patent Examining Procedure at Section 2143.01, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. Although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so. Citing *In re Mills*, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990). Lin provides no suggestion to integrally and permanently attach its temperature controller base to an outer surface of a drinking vessel. For all the above reasons, claim 1 is unobvious over the combination of Padamsee, Lin and Katayev, and is otherwise allowable. Claims 2-18 are also unobvious, *inter alia*, by

not "after."

Katayev does

virtue of their dependence from claim 1, which is unobvious for the reasons set forth above.

Claim 19, which has also been amended, is unobvious over the combination of Padamsee, Lin and Katayev because the cited references neither teach nor suggest a method of maintaining a liquid at a selected temperature including "integrally attaching a controller to an outer surface of said mug, wherein said controller is in communication with said heating element for selectively activating and deactivating said heating element so as to heat said liquid in said mug to a desired temperature; [and] integrally attaching a user interface to the outer surface of said mug, wherein said user interface is in communication with said controller for establishing the desired temperature of said liquid." Similar to the arguments set forth above with respect to claim 1, Applicants respectfully assert that Lin actually teaches away from the limitations recited in claim 19 because it teaches that the container 10 (FIG. 1) must be attached or inserted into the base 14 for heating or cooling a liquid and must be detached or removed from the base 14 for drinking the heated or cooled liquid. This is diametrically opposed to the limitations of claim 19 which require that the controller and user interface remain at all times "integrally attached" to the outer surface of the mug so that the liquid in the mug remains heated to a selected temperature when being consumed by a user. For all of these reasons, claim 19 is unobvious over the references cited by the Examiner and is otherwise allowable. Claims 20-26 are also unobvious, *inter alia*, by virtue of their dependence from claim 19, which is unobvious for the reasons set forth above.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made".

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: January 8, 2003

Respectfully submitted,

By Michael J. Doherty

Michael J. Doherty

Registration No.: 40,592
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorneys for Applicant

Version With Markings to Show Changes Made**IN THE ABSTRACT:**

An electronic drinking mug includes a heating element in thermal communication with the mug for heating a liquid contained in the mug, a temperature sensing in communication with the heating element for monitoring a temperature of the liquid, a controller integrally attached to an outer surface of the mug and in communication with the temperature sensor and the heating element for selectively activating and deactivating the heating element so as to heat the liquid in the mug to a desired temperature. In operation, the controller receives temperature readings from the temperature sensor and deactivates the heating element when the monitored temperature of the liquid is greater than or equal to the desired user preset temperature of the liquid. A user interface is integrally attached to the outer surface of the mug and in communication with the controller for establishing the desired temperature of the liquid.

IN THE CLAIMS:

1. (Amended) An electronic drinking mug comprising:
 - a heating element in thermal communication with said mug for heating a liquid contained in said mug;
 - a temperature sensor in communication with said heating element for monitoring a temperature of said liquid;
 - a controller integrally attached to an outer surface of the mug and in communication with said heating element for selectively activating and deactivating said heating element so as to heat said liquid in said mug to a desired temperature, wherein said controller receives temperature signals from said temperature sensor and deactivates said heating element when the monitored temperature of said liquid is greater than or equal to the desired temperature of said liquid; and

a user interface integrally attached to the outer surface of said mug and being in communication with said controller for establishing the desired temperature of said liquid.

19. (Amended) A method of maintaining a liquid at a selected temperature comprising:

providing a drinking mug and a heating element in thermal communication with said mug;

providing a temperature sensor in communication with said heating element for continuously monitoring a temperature of said liquid;

integrally attaching a user interface to the outer surface of said mug, wherein said user interface is in communication with (said controller) for establishing the desired temperature of said liquid;

engaging said user interface for selecting a—the desired temperature for said liquid; and

heating said liquid to said selected temperature.